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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,404	07/30/2001	Lawrence A. Booth JR.	INTL-0618-US (P11949)	4653

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EXAMINER

MACCHIAROLO, PETER J

ART UNIT	PAPER NUMBER
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2875

DATE MAILED: 01/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/918,404

Applicant(s)

BOOTH ET AL.

Examiner

Peter J Macchiarolo

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,11,12,14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,11,12,14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. In view of the appeal brief filed on August 29, 2003, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.
2. To avoid abandonment of the application, appellant must exercise one of the following two options:
 - (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
 - (2) request reinstatement of the appeal.If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Response to Amendment

3. The reply filed on May 7, 2003 consists of changes to the claims, and further, the reply consists of remarks related to the prior rejection of claims in the Final Office Action. However, pending claims 1, 3-5, 11, 12, 14, and 15 are not allowable as explained below.

Drawings

4. The drawings are objected to because a cut line is not shown in figure 3 to clarify the section view of figures 1 and 2.

5. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the substrate 20 as described in the specification. The instant specification discloses that the substrate 20 is mounted to the back plate 22 by a surface mount plate 28. However, figure 1 shows the substrate 20 being in-between the front plates 12. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

6. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "12" has been used to designate both a front plate/panel and modules.

7. The drawings are objected to under 37 CFR 1.83(b) because they are incomplete. 37 CFR 1.83(b) reads as follows:

When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1, 3-5, 11, 12, 14, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. In regards to claims 1 and 11, the claims recite a front plate and a back plate in lines 2, 3, and 6 of the claim. Where a claim directed to a device can be read to include the same element twice, it is considered indefinite. *Ex parte Kristensen*, 10 USPQ2d 1701 (Bd. Pat. App. & Inter. 1989). It is not clear if the claim refers to an additional set of front and back plates, or the same front and back plates as previously claimed. The Examiner is interpreting the claim to recite two different sets of front and back plates.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 3-5, 11, 12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakaguchi et al (USPN 5,990,615; "Sakaguchi").

12. In regards to claims 1, and 11, Sakaguchi discloses in figure 1, an organic EL display element comprising a front plate (1) having an organic EL material (4) formed on one side thereof, a back plate (9) secured over the one side of the front plate, and a filler material (12) including a desiccant (10, 11) is mixed into the filler material to seal the region between the front and back plates. Sakaguchi further discloses the element comprises a module with a front plate (7) and back plate (3), with the filler material provided around the periphery of the module.

13. Sakaguchi is silent to the light emitting device having a plurality of modules.

14. However, including multiple modules in Sakaguchi's light emitting device in an array is a matter of obvious design choice, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Pater Co. v. Bemis Co.*, 193 USPQ 8. Further, one of ordinary skill in the art will appreciate that an array of modules in Sakaguchi's light emitting device will require Sakaguchi's back plate to be secured over the plurality of modules, thereby encasing the filler material between the modules, and this configuration will allow for a potentially robust display device with each module having a different color.

15. Further, it would have been an obvious matter of design choice to use multiple modules of Sakaguchi, since Applicant has not adequately disclosed any testing or analytical data which establishes criticality for these modifications, or recites any specific advantage the invention benefits from over the prior art from this modification. It appears that Sakaguchi's light emitting device would perform equally well with a plurality of modules.

16. Therefore, according to the above discussion, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct Sakaguchi's organic light emitting display with a plurality of modules.

17. The Examiner notes while Sakaguchi is silent to a method of manufacturing such a device, the steps of forming, covering, sealing, combining, and filling are very broad. Hence, the structure taught by Sakaguchi meets Applicant's recited method step limitations.

18. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct the organic light emitting display of Sakaguchi with the method of claim 11, since the method steps are obvious in light of the resultant structure.

19. In regards to claims 3, 4, 5, 12, 14, and 15 Sakaguchi further teaches a dehydrating agent such as granular silica gel or zeolite may be used to absorb oxygen or moisture¹.

20. Sakaguchi is silent to the filler material including an epoxy.

21. However, it would have been obvious to one having ordinary skill in the art that the time the invention was made to include an epoxy in the recited filler material (i.e. perfluoroalkane or perfluoroamine), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. Further, one would be motivated to use epoxy in the filler material for a variety of reasons, including material availability and manufacturing processes with sensitive requirements.

22. Further, it would have been an obvious matter of design choice to include an epoxy in the filler material, since Applicant has not adequately disclosed any testing or analytical data which establishes criticality for this modification, or recites any specific advantage the invention benefits from over the prior art from this modification. It appears that Sakaguchi's organic light emitting element would perform equally well when epoxy is used in the filler material.

23. Therefore, according to the above discussion, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct Sakaguchi's organic light emitting element including epoxy in the filler material.

¹ Sakaguchi, col. 3, ll. 16-31.

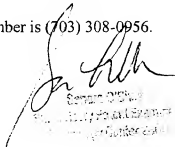
Response to Arguments

24. Applicant's arguments with respect to claims 1, 3-5, 11, 12, 14, and 15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
26. USPN 5,661,371 to Salerno et al and 6,339,289 to Fork et al is evidence that an array of multiple modules in a light emitting device in is known in the art, and would have been obvious.
27. USPN 6,489,719 to Young et al is evidence that including epoxy in a fill material is known in the art, and would have been obvious.
28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Macchiarolo whose telephone number is (703) 305-7198. The examiner can normally be reached on 7.30 - 4:30, M-F.
29. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9318.
30. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

pjm



Peter J Macchiarolo
Examiner
USPTO